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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,562	07/25/2003	Srinivas Nomula	31599/258478	3394

826 7590 03/10/2006

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EXAMINER
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HYLTON, ROBIN ANNETTE

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 03/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary****Application No.**

10/627,562

**Applicant(s)**

NOMULA, SRINIVAS

**Examiner**

Robin A. Hylton

**Art Unit**

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10, 12-20 and 27-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12-20 and 27-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election without traverse of the restriction requirement in the reply filed on December 16, 2005 is acknowledged.

***Claim Rejections - 35 USC § 102***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1, 2, 10, 12, 19, 20 and 28-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Fait et al (US 4,840,289).

Fait teaches a single-layer plastic membrane lid having inner and outer portions defined by an annular groove (32) and a grip portion (34) attached to the inner portion for removing the inner portion and thereby opening the container. The lid is spun bonded to the container. Spin welding is also known in the art, by one of ordinary skill on the art, as friction welding. Thus, the lid is attached to the container by the same method set forth in the instance claims.

***Claim Rejections - 35 USC § 103***

4. Claims 6 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fait.

Regarding claims 6 and 15, Fait teaches the claimed lid except for the fail strength of about 14 pounds or less. It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the fail portion having a strength of about 14 pounds or less to optimize the lid strength for the desired amount of pressure needed to rupture the annular groove at the fail portion.

5. Claims 7-9 and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fait.

Wherein Fait does not explicitly teach the claimed polyolefin material, it would have been obvious to one having ordinary skill in the art at the time the invention was made to select a

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barrier material of polyolefin containing oxygen scavengers, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. Doing so provides a lid capable of protecting the container contents from degradation.

6. Claims 1-1,12-20 and 28-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over MacLaughlin (US 4,892,227).

Spin welding is also known in the art, by one of ordinary skill on the art, as friction welding. Thus, the lid is attached to the container by the same method set forth in the instance claims.

MacLaughlin teaches a lid “preferably” having a layer of plastic partially surrounded by a layer of gas impermeable material. Wherein this arrangement is not required, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the lid of a single-layer high barrier plastic membrane having gas barrier properties. Thus, forming a more cost effective and more easily manufactured lid.

Additionally, with regard to claims 7-9 and 16-18, MacLaughlin does not explicitly teach the claimed material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to select a barrier material of polyolefin containing oxygen scavengers, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. Doing so provides a lid capable of protecting the container contents from degradation.

Regarding claims 6 and 15, MacLaughlin teaches the claimed lid except for the fail strength of about 14 pounds or less. It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the fail portion having a strength of about 14 pounds or less to optimize the lid strength for the desired amount of pressure needed to rupture the annular groove at the fail portion.

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7. Claims 4 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 1 above, and further in view of Dutt et al. (US 4,687,116).

MacLaughlin as modified teaches the claimed container except for the grip portion being an annular pull ring of a diameter substantially corresponding to the annular groove and a weaker, secondary connection portion between the grip portion and the membrane.

Dutt teaches it is known to provide a grip portion in the form of an annular pull tab and to provide primary and secondary connection portions, the secondary connection portion being weaker than the primary connection portion.

It would have been an obvious matter of design choice to form the annular pull ring of a diameter substantially corresponding to the annular groove, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art.

Additionally, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a weaker, secondary connection portion between the grip portion and the membrane. Doing so provides indication of possible tampering and differentiates a previously opened container with unopened containers when stored in the same location.

### ***Response to Arguments***

8. Applicant's arguments with respect to claims 1-10 and 12-20 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Woerz et al. (US 4,402,451) teaches spin bonding is also referred to a friction welding. Wombold (US 4,702,387) teaches a single-layer plastic lid attached to a container body by spin welding.

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10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

11. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (571) 273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

12. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence for Application Serial No. \_\_\_\_\_ is being facsimiled to The U.S. Patent and Trademark Office via fax number 571-273-8300 on the date shown below:

Typed or printed name of person signing this certificate

\_\_\_\_\_

Signature\_\_\_\_\_

Date\_\_\_\_\_

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13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (571) 272-4540. The examiner can normally be reached Monday - Friday from 9:00 a.m. to 4:00 p.m. (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse, can be reached on (571) 272-4544.

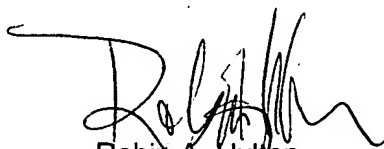
If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Errica Miller at (571) 272-4370.

Any inquiry of a general nature or relating to the status of this application or proceeding may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Other helpful telephone numbers are listed for applicant's benefit:

- Allowed Files & Publication (888) 786-0101
- Assignment Branch (800) 972-6382
- Certificates of Correction (703) 305-8309
- Fee Questions (571) 272-6400
- Inventor Assistance Center (800) PTO-9199
- Petitions/special Programs (571) 272-3282
- Information Help line 1-800-786-9199
- Internet PTO-Home Page <http://www.uspto.gov>

RAH  
March 6, 2006



Robin A. Hylton  
Primary Examiner  
GAU 3727